

By Miller - Chase

H.B. No. 1314

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of the practice of lay midwifery;  
providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. DEFINITIONS. In this Act:

(1) "Practice of lay midwifery" means assisting for compensation, women in childbirth but does not include treating or offering to treat a disease, disorder, deformity, or injury with medical or surgical treatment or drugs requiring a prescription.

(2) "Lay midwife" means a person who practices midwifery but does not include licensed physicians or specially trained registered nurses.

(3) "Department" means the Texas Department of Health Resources.

Sec. 2. INSTRUCTION IN MIDWIFERY. The department shall approve a course of instruction in the practice of lay midwifery. An approved course must include:

(1) study of normal childbirth;

(2) indications of complications which may occur in childbirth;

(3) basic prenatal care;

(4) care of newborn infants;

(5) fundamentals of hygiene;

(6) techniques for keeping clean or sterile supplies and

1 equipment;

2 (7) state laws and rules requiring reporting of births and  
3 deaths;

4 (8) state laws requiring silver nitrate treatment of a  
5 newborn infant's eyes and tests for syphilis and mental  
6 retardation;

7 (9) examinations that test for the skills and information  
8 taught in the course of study;

9 (10) any additional training or information the department  
10 decides is necessary for the practice of midwifery.

11 Sec. 3. PROFICIENCY EXAMINATION. (a) The department shall  
12 design and administer an examination to cover the subjects required  
13 in Section 2 of this Act.

14 (b) A person receiving a passing grade, as set by the  
15 department, is entitled to a letter stating that the person is  
16 proficient in the subjects required in Section 2 of this Act.

17 Sec. 4. REQUIREMENT OF A CERTIFICATE. No person may engage  
18 in the practice of lay midwifery without a certificate issued under  
19 this Act.

20 Sec. 5. CERTIFICATE APPLICATION. An applicant for a  
21 certificate to practice lay midwifery must file a written  
22 application on a form prescribed by the department and include the  
23 following:

24 (1) at least one letter signed by a licensed physician and  
25 stating sponsorship of the applicant and a willingness to accept  
26 referrals from the midwife when a complication requiring medical  
27 treatment occurs during childbirth;

1           (2) a letter of proficiency showing the completion of an  
2 approved course of instruction in the practice of lay midwifery, or  
3 a letter stating that the applicant passed a proficiency  
4 examination administered by the department; and

5           (3) \$25 for a certificate fee.

6           Sec. 6. ISSUING A CERTIFICATE. The department shall issue a  
7 certificate to practice lay midwifery to a person who has complied  
8 with the application requirements in Section 5 of this Act.

9           Sec. 7. RENEWAL OF UNEXPIRED CERTIFICATE. (a) A  
10 certificate issued under this Act expires one year from the date of  
11 issue.

12           (b) A renewal certificate shall be issued on receiving a  
13 completed application form prescribed by the department and payment  
14 of a \$10 renewal fee prior to the expiration date of the  
15 certificate.

16           Sec. 8. RULES AND STANDARDS. (a) The department shall  
17 prescribe forms necessary to perform its duties and adopt rules and  
18 standards for the following:

19           (1) a lay midwife's responsibility for reporting a birth or  
20 death;

21           (2) minimum age for a practitioner of lay midwifery;

22           (3) minimum training;

23           (4) continuing training or education;

24           (5) standards for mental and physical health;

25           (6) requirements to be met by the expectant mother before  
26 the midwife may accept employment;

27           (7) supervision of lay midwife services; and

1           (8) additional rules or standards the department decides as  
2 necessary for the practice of lay midwifery.

3           Sec. 9. DENIAL OR REVOCATION OF CERTIFICATE. (a) The  
4 department may deny, revoke, or refuse to renew a certificate if  
5 the applicant or holder of the certificate fails to comply with the  
6 provisions of this Act or with the rules and standards the  
7 department adopts under this Act.

8           (b) A person who is denied a certificate or whose  
9 certificate is revoked or not renewed is entitled to a hearing on  
10 the question of the issuance of the certificate and is entitled to  
11 notice of the date, time, and place of the hearing not later than  
12 21 days before the date of the hearing. A request for a hearing  
13 must be made during the 30-day period following the date on which  
14 the applicant or the holder of a certificate received notice that  
15 the certificate was denied or that it was to be revoked or refused  
16 renewal.

17           (c) Except as provided in Subsection (e) of this section,  
18 revocation of a certificate or an order refusing to renew a  
19 certificate does not take effect until the expiration of 30 days  
20 following the date on which the holder of the certificate received  
21 notice of the revocation or order of refusal to renew the  
22 certificate.

23           (d) If after a hearing the certificate is denied, revoked,  
24 or not renewed, the department shall send to the applicant or  
25 holder of the certificate a copy of their findings and grounds for  
26 the decision.

27           (e) The department may revoke a certificate to be

1 immediately effective in a situation where health or safety  
2 requires action. The department must immediately notify the holder  
3 and provide an opportunity for a hearing within 14 days after the  
4 action takes effect.

5 (f) The Administrative Procedure and Texas Register Act  
6 (Article 6252-13a, Vernon's Texas Civil Statutes) applies to all  
7 hearings authorized by this Act.

8 Sec. 10. LOCAL HEALTH DEPARTMENT SERVICES. The Local Health  
9 Department or Public Health Region may assist a lay midwife who  
10 holds a certificate under this Act by providing the following:

- 11 (1) sterilization of supplies and equipment;
- 12 (2) phenylketonuria screening or supplies for screening;
- 13 (3) silver nitrate solution one percent;
- 14 (4) names of physicians who will accept referrals from lay  
15 midwives;
- 16 (5) information about hospital resources;
- 17 (6) information about child health and crippled children  
18 programs;
- 19 (7) laboratory services; and
- 20 (8) immunization clinic schedules.

21 Sec. 11. REGISTRATION OF LAY MIDWIVES. Every person who  
22 practices lay midwifery shall register on a form provided by the  
23 department with the Local Health Department or with the offices of  
24 the Public Health Region by March 1, 1978. The registration is  
25 valid until January 1, 1979.

26 Sec. 12. PENALTIES. After January 1, 1979, a person who  
27 practices lay midwifery without a certificate under this Act

1 commits a Class C misdemeanor. Each day in violation of this Act  
2 is a separate offense.

3 Sec. 13. EXCEPTIONS. This Act does not apply to a licensed  
4 physician or to a person who trains women for childbirth and who  
5 may assist or coach a trainee during labor and delivery with the  
6 consent of the attending physician.

7 Sec. 14. DISPOSITION OF FUNDS. All fees received by the  
8 department under this Act shall be deposited in the state treasury  
9 to the credit of the General Revenue Fund.

10 Sec. 15. EFFECTIVE DATE. This Act takes effect September 1,  
11 1977, except for Section 4 which takes effect January 1, 1979.

12 Sec. 16. EMERGENCY. The importance of this legislation and  
13 the crowded condition of the calendars in both houses create an  
14 emergency and an imperative public necessity that the  
15 constitutional rule requiring bills to be read on three several  
16 days in each house be suspended, and this rule is hereby suspended.

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By Tully - Close

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FEB 28 1977

MAR 2 1977

1. Filed with the Chief Clerk.

2. Read first time and Referred to Committee on

Health & Welfare

3. Reported favorably (as amended) and sent to Printer at \_\_\_\_\_ M.  
(time)

4. Printed, distributed and sent to the Committee on Calendars at \_\_\_\_\_ M.  
(time)

5. Read second time (amended); passed to third reading (failed) by (Non-Record Vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting).

6. Motion to reconsider and table the vote by which H.B. \_\_\_\_\_ was ordered engrossed prevailed (failed) by a (Non-record vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, and \_\_\_\_\_ present, not voting).

7. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, and \_\_\_\_\_ present, not voting.

8. Read third time (amended); finally passed (failed) by (Non-Record Vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting).

9. Caption ordered amended to conform to body of bill.

10. Motion to reconsider and table the vote by which H.B. \_\_\_\_\_ was finally passed prevailed (failed) by a (Non-record) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, and \_\_\_\_\_ present, not voting).

11. Ordered Engrossed at \_\_\_\_\_ M.  
(time)

12. Engrossed.

13. Returned to Chief Clerk at \_\_\_\_\_ M.  
(time)

14. Sent to Senate.

\_\_\_\_\_  
Chief Clerk of the House

15. Received from the House \_\_\_\_\_

16. Read, referred to Committee on \_\_\_\_\_

17. Reported favorably \_\_\_\_\_

18. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

19. Ordered not printed.

20. Regular order of business suspended by

(a viva voce vote.)

( \_\_\_\_\_ yeas, \_\_\_\_\_ nays.)

\_\_\_\_\_ 21. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays.

\_\_\_\_\_ 22. Read second time \_\_\_\_\_ passed to third reading by:  
(a viva voce vote.)  
( \_\_\_\_\_ yeas, \_\_\_\_\_ nays.)

\_\_\_\_\_ 23. Caption ordered amended to conform to body of bill.

\_\_\_\_\_ 24. Senate and Constitutional 3-Day Rules suspended by vote of \_\_\_\_\_ yeas,  
\_\_\_\_\_ nays to place bill on third reading and final passage.

\_\_\_\_\_ 25. Read third time and passed by  
(a viva voce vote.)  
( \_\_\_\_\_ yeas, \_\_\_\_\_ nays.)

OTHER ACTION: OTHER ACTION:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_ 26. Returned to the House.

\_\_\_\_\_ 27. Received from the Senate (with amendments).

\_\_\_\_\_ 28. House (Concurred) (Refused to Concur) in Senate Amendments by a (Non-record Vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting).

\_\_\_\_\_ 29. Conference Committee Ordered.

\_\_\_\_\_ 30. Conference Committee Report Adopted (Rejected) by a (Non-record Vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, and \_\_\_\_\_ present, not voting).

\_\_\_\_\_ 31. Ordered Enrolled at \_\_\_\_\_ : \_\_\_\_\_ M.  
(time)